

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA-497/99

New Delhi this the 17<sup>th</sup> day of September, 1999.

Hon'ble Mr. Justice V.Rajagopala Reddy, Vice-Chairman(J)  
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

1. Shri Punnu Swami,  
S/o Shri Munnu Swami,  
R/o Railway Tent in Sarai Rohilla,  
Delhi.

2. Sh. Ghenu Ram,  
S/o Shri Ganga Ram,  
R/o Railway Tent in Sarai Rohilla,  
Delhi.

3. Sh. Jagdish,  
S/o Sh. Siro,  
Railway Tent in Sarai Rohilla,  
Delhi.

...Applicants

(By Advocate Shri S.N. Shukla)

-Versus-

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. The Chief Administrative Officer/  
Construction, Northern Railway,  
Kashmere Gate,  
Delhi-110 006.

3. The Divisional Railway Manager,  
Delhi Division, Northern Railway,  
State Entry Road,  
New Delhi.

4. The Divisional Railway Manager,  
Ferozpur Division, Northern Railway,  
Ferozpur (Punjab).

...Respondents

(By Advocate Shri R.P. Aggarwal)

O R D E R

By Reddy, J.

The question that arises in this case is whether the applicants who are working as Mates in Group 'C' posts are entitled to be regularised directly as Mates.

2. The applicants submit that they have been appointed on various dates as casual Mates in the years

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1974, 1978 and 1977 and they attained the temporary status as Mates in 1982 and 1984. Presently they are working as Mates and they are skilled to repair Railway lines. In the impugned order the applicants were sought to be transferred to the Divisions where they were holding their lien for posting them in their substantive posts (Group 'D'). It is their grievance that the impugned order of transfer amounts to reversion to the posts of Gangman or to any other posts in Group 'D'. It is contended by the learned counsel for the applicants that they were already holding Group 'C' posts by virtue of Rule 2005 of the IREM Vol.II. Hence they cannot be reverted to Group 'D' posts. It is further contended that they are entitled to be absorbed in Group 'C' posts.

2. The respondents in their counter state that all the casual labours are entitled to be screened for regularisation in Group 'D' categories and who are found fit were put in a provisional panel. Accordingly, the applicants appeared voluntarily before the screening committee and they were declared fit and they were placed in the panel for group 'D' posts as Gangmen. The proceedings dated 28.10.91 of the Northern Railway, Kashmir Gate clearly establish that the applicants have only been screened in Group 'D' posts and they have been regularised in Group 'D' posts. The posts of P. Way Mate is not a semi skilled post as per the classification of Artisan staff. It is not permissible to screen them directly as Mates, as it is a promotional post and cannot be filled directly on regular basis by regularising Mates. But, they are to be filled up only by promotion in regular channel of promotion from lower grades of

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Gangmen. Unless the casual labours who are already screened were regularised in Group 'D' they are not entitled to be considered for promotion or regularisation as Mates on seniority-cum-suitability basis. For this purpose, the impugned order was passed as number of casual labours were found surplus. Hence, they were transferred to their units in their substantive posts.

3. The impugned order appears to be an order by which the Group 'D' employees, who are found surplus in the division are sent back to their substantive posts. The plea of the applicants that they have been directly appointed in Group 'C' posts and that they never held the posts of Gangmen in Group 'D' cannot be accepted, as no material is placed before us in support of their plea. It is, however, not disputed that the applicants are working presently as Mates in Group 'C' posts. The law is well settled that the persons who are working as casual Mates are not entitled for regularisation or permanent appointment in Group 'C' posts directly as the posts of Mates are promotional posts from the lower group cadre. The applicants have not shown to us any such order of promotion to Group 'C' posts. In Union of India & Anr. v. Moti Lal & Ors., 1996 (33) ATC 304 the Supreme Court held that it was not permissible to appoint a person directly as a Mate and it is only a promotional posts from Class IV posts of Gangmen and Keymen and such promotion can be effected only by testing the suitability and efficiency through trade test. The decision cited by the learned <sup>counsel</sup> for the applicants in L. Robert D'Souza v. XEN, Southern Railway, 1982 (1) SLR SC 864 has no application to the facts of the case. The question that

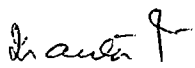
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was raised and decided was whether the applicant who was a casual labour put in 20 years service was entitled to status of temporary railway servant and whether the termination of services amounts to retrenchment or whehter services can be dispensed with without notice. It was held that the order of termination was bad. It is true that the Supreme Court also held in the said case that the construction organisation in Railways is not a temporary organisation. The impugned order is not an order of termination. The applicants were sought to be transferred on the ground that they were found surplus in the construction organisation, to their substantive posts. The learned counsel for the applicants relies upon rules 26 & 27 of IREM Vol-I that the impugned order of transfer is bad, as it is not passed in accordance with the rules. We do not find that there is any violation of the rules, as the order is not a transfer order in its strict sense, as the applicants are sent back to their divisions to join in the substantive posts. We do not, therefore, find any infirmity in this regard in the impugned order.

4. In the circumstances, the OA is dismissed.

No costs.

  
(Smt. Shanta Shastri  
Member (A)

  
(V. Rajagopala Reddy)  
Vice-Chairman(J)

'San.'

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